



City Manager's Office
City of Frisco, Texas

Memorandum

To: Honorable Mayor Maso and Members of the Frisco City Council

Cc: George Purefoy, City Manager

From: Ron Patterson

Date: 12/08/2008

Agenda Caption: Consider and act upon a Resolution authorizing the City Manager to execute a Change Order on the Stars Center construction contract with Balfour Beatty for the finish-out of a 12,000 sqare foot lease space.

Action Requested: Staff request approval of a Resolution and Change Order for finish-out work associated with the lease by Zoom Sports, Inc. of the currently vacant space at the Stars Center. **NOTE: Only take action if Zoom Lease item is approved.**

Background Information:

The attached Change Order with Balfour Beatty is directly related to the proposed Lease Agreement with Zoom Sports, Inc. Below is the same information that was contained in the previous item related to the Zoom Lease Agreement:

"The attached Lease Agreement with Zoom Sports, Inc. ("Zoom") is for the approximately 12,000 square feet within the Stars Center that was previously leased by Kurt Thomas. Zoom is a firm that provides physical therapy services, athletic enhancement programs, human performance training and fitness to athletes and non-athletes. This type of business is a perfect fit for the space in that it is sports related and will more than likely be providing direct services to other sports related tenants within the facility.

The Lease before you for consideration is our standard form of lease and has been reviewed by the City Attorney's office (Bob Roeder). The Lease calls for rent payments in the amount of \$13,750.00 per month which will be due the first of each month for a total of \$165,000.00 per year in rent payments. The document also restricts the use types that may go into the facility such that if Zoom were to drastically change their core business such change would have to be reviewed. Additionally, the lease allows Zoom to sublease a portion (not all) of the space. Such subleasing is also restricted to "sports related" uses. As is typical in the lease of any space, part of the consideration within the Lease the Lessor (City) will provide for some of the finish-out of the facility. The City's exposure for finish-out is capped at \$63,914.48 for actual construction and \$5,000.00 for architectural fees. Zoom will be making additional improvements prior to taking possession of the facility. Also, if Zoom does not stay in the facility at least two years they will be required to repay the city's participation in finish-out on a prorated (month for month) basis.

Should the Council approve this Lease it is estimated that the facility will be ready for possession around February or March 2009, however, the specific timeline is still under development by the contractor who will complete the finish-out work. In order to keep the overall Stars Center facility on time for delivery it will also be recommended (contained in the next agenda item) that we simply execute a Change Order to the construction contract with Balfour Beatty to complete this finish-out. As you will note on the quote from Balfour we are able to complete approximately \$97,128.06 in improvements for \$63,914.48 because they are already onsite and we are not paying additional mobilization and other related costs. This action alone will save approximately \$33,213.80 and comports with state law regarding change orders to existing contracts."

Board Review/Citizen Input:

None

Alternatives:

- Deny Resolution and Contract Amendment and direct staff to find another Lessee.

Financial Considerations:

Finish –out to be paid for out of bond funds, however, the revenue from the prior proposed Zoom Lease Agreement will annually generate \$165,000.00.

Legal Review:

Reviewed by Bob Roeder – Standard AIA Document utilized.

Supporting Documents:

- Resolution
- Change Order Document – AIA G701 2001

Staff Recommendation:

Staff recommends approval of the Resolution and Contract Amendment.